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Internal
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Notice of Violation N06-39-1-1
Informal Conference
April 24, 2006

Information Regarding Notice of Violation N06-39-1-1

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Chronology of Events

12/22/2005

Permittee submitted partial 3rd quarter, 2005 sample data and informed the Division (via e-mail) that because of vacation schedules at the end of the year, a complete submittal was not possible. Permittee inquired if there were any concerns with submitting early in 2006 as Little Bear Spring flow data had not been received from Castle Valley Special Services District, nor HCCO1, HCCO2, or HCCO4 (Huntington Creek) flow data from Huntington Power Plant. There was no response directed toward the inquiry by DOGM

Division uploaded the supplied data set and supplied a list of missing sample data. Refer to attached e-mails.

1/17/2006

Permittee received the Little Bear Spring and Huntington Creek flow data and submitted remaining sample data to DOGM thinking required 3rd quarter, 2005 submittal was complete. Permittee received no reply from the Division concerning the late submittal, so Permittee assumed there was not a problem.

1/26/2006

Because Permittee did not receive official report for the 1/17/2006 submittal, Permittee emailed DOGM requesting this report.

1/30/2006

DOGM responded to the 1/26/2006 request and emailed the report to Permittee. In the email, DOGM noted that the following sample sites were still missing: MNME, TW-10 (Deer Creek in-mine sites) HCCO2, HCCO4 (Huntington Creek sites), DCWR1 (Deer Creek Waste Rock site), and MFR-10 (East Mountain Spring – Mill Fork Area). No mention was made of a deadline date by which missing sample data must be submitted. Permittee recalled submitting HCCO2, HCCO4, DCWR1, and MFR-10 samples and initiated an investigation to find out the status of the samples. Refer to Results of Investigation below.

2/6/06

Division Inspector, Steve Demczak called Permittee with notification of an NOV for failure to submit within 90 days. Inspector stated that Permittee had been warned to submit samples in a timely manner or an NOV would be issued.

Permittee submitted the six missing sample sets on the 2/6 and continued investigation.

NOTE: Permittee did not recall receiving any official written warning regarding submitting samples in a timely manner. However, in communication with Steve Demczak and Dana Dean, it was stated that DOGM gave a general verbal warning Energy West around April 2004 as a result of several operators submitting late water sample data. This verbal warning was presented as part of the general monthly inspection procedure to Energy West as: "If the Division finds sample data missing from the required quarterly list after the submittal deadline, the Permittee would be notified of the missing samples. The Permittee would have 15 days to submit the data or an NOV would be issued."

2/7/06

DOGM informed Permittee that flow data for site HCCO4 was still missing.

Permittee emailed the flow information for HCCO4 and informed DOGM that the flow was the same for HCCO1, HCCO2, and HCCO4.

3rd quarter, 2005 submittal completed and an official report received.

3/8/06

Permittee emailed the Division's hydrologist to inquire about the 4th quarter submittal and if he had a chance to review the 3rd quarter data.

3/15/06

The hydrologist emailed back on March 15th noting that there was error in two August samples (TM-3 and SW-1) and two September samples (SW-2 and 18-3-1).

Results of Investigation

MNME, TW-10 (Deer Creek in-mine sample sites): The person qualified to take underground water samples was thoroughly involved in an intensive underground directional drilling program throughout the month of September. In review of our in-house hydrologic sample check-off list, it became apparent that the 3rd quarter in-mine sampling was not completed in September as specified in our plan. Energy West collected the samples during the 1st week of October. Permittee recalls informing DOGM that the sample at this site would be collected during the first week of October, but has no written evidence of this communication. Permittee assumed that DOGM did not consider this as a problem

Permittee's water analysis contractor (SSG Minerals Inc.) is instructed to submit all water analyses completed during the quarter in DOGM's electronic format to Energy West. Since the in-mine samples were collected during the first week of October (4th quarter) the lab did not include these samples in the electronic submittal. These were submitted as part of the 4th quarter data set.

HCC02, HCC04, DCWR1, MFR-10: There was no direct evidence that supports Permittee's claim that the sample data was submitted. During Permittee's process, however, all files (.csv files) received from the water lab are uploaded onto DOGM's database. Each electronic sample site received from our lab contractor is individually checked for accuracy against a hardcopy of the site analysis. The hardcopy is then stamped to indicate that it was appraised for consistency with the electronic file. The checked sample data are submitted to DOGM and physically marked off from Permittee's list of required sites. The four sites in question had been stamped and checked off Permittee's check list. Therefore, Permittee believes that these samples had been entered into DOGM's electronic water database. Dennis Oakley called Dana Dean on February 6th to inquire if samples could "get lost" in electronic transit. Dana stated that if there is an error in the file or the file is corrupted in some way, it goes into a separate file that only she has access to. If the Permittee does not inquire about the sample data in the corrupted file list, she assumes that the Permittee has found the problem with the data and has taken care of it. She then deletes the file and the record no longer exists.

It was discovered during the investigation that the sample data for site MFR-10 had been submitted within the specified time frame as mine/site number, 4/346. The original master list of the mine and site numbers had MFR-10 recorded as mine 4 and site 346. Energy West was unaware that sometime between January 2002 and May 2003, DOGM had changed this site number from 346 to 374. Permittee was still using this original master list. It is possible that DOGM could have deleted site MFR-10 from the database if the site number was wrong (346 instead of 374) by the process described by Dana Dean above. As for the remaining sites (HCC02, HCC04 and DCWR1) Energy West believed it had submitted the required data.

However, there is no direct evidence that supports this claim other than Energy West's internal verification stamp.

Summary

Energy West assumed it was following DOGM's unwritten policy and had 15 days to report the missing sample data following the January 30th e-mail notice. However, Energy West was only given 7 days to report before the NOV was issued. The NOV received by Energy West was not issued for violating any water quality standard, the NOV was issued for hindering DOGM hydrologists from reviewing the data in a timely manner, and the lack of diligence on the operator's part to report the data.

The March e-mails clearly show that the Permittee did not hinder the Division from reviewing the 3rd quarter data because there was data that hadn't been checked. Nor is the Permittee lacking in diligence for submitting the information. The Permittee thought it had 15 days to respond, but was cited after 7 days.

Energy West believes it goes to great extremes to insure correct water quality sample collection and reporting and the transferring into the Division's database for a very large number of sites. Some of these sites have been reported for more than 20 years. It is important to us that all data set submittals are accurate. Energy West believes that an NOV should not be issued for not reporting within the 90 day timeframe for the reasons described above. In fact, all the required samples were accurately taken, reported and were submitted in the data base prior to receiving a copy of the NOV. Energy West feels the situation would be different if the samples were never collected and would accept that responsibility.]

Energy West supports an extensive comprehensive hydrology database. It participated with the Division in the initial investigation on a comprehensive hydrologic database. This database supports all information that caters specifically to a very detailed Annual Hydrologic Report. The collection and reporting of water samples is an onerous task that Energy West takes seriously and works hard to comply in a professional manner. We feel that receiving an NOV indicates a serious failure on our part, and in this case, the issuance is not justified. Energy West is committed to continuing to work hand-in-hand with DOGM to insure that our permit requirements are met and that we have as little impact on the environment as possible. *

Notice of Violation N06-39-1-1
Informal Conference
April 24, 2006

E-mail Communications

Oakley, Dennis

From: Dana Dean [danadean@utah.gov]
Sent: Thursday, December 22, 2005 3:57 PM
To: Oakley, Dennis
Cc: Jim Smith; Pete Hess; Steve Demczak
Subject: Re: 3rd Qtr. Submittal

Attachments: PCP-12-05.doc



PCP-12-05.doc (85
KB)

Dennis,

I fixed the 17-14-4 samples and uploaded all checked samples for Des-Bee-Dove, Cottonwood/Wilberg, Trail Mountain #9, and Deer Creek from the pipeline into the database. A report is attached.

You are probably already aware of the samples you are missing, but as a reminder and to make sure we are on the same page, according to parameters set by the assigned hydrologist, you are still missing

Cottonwood/Wilberg

WCWR1 - quarterly sample

Trail Mountain #9

TM-21 September sample
TM-22 September sample
18-2-1 August, September sample
17-26-4 August, September sample
17-25-1 August, September sample
17-26-5 August, September sample
17-35-1 August, September sample
17-35-2 July, August, September sample
18-3-1 July, August, September sample

Deer Creek

RCF-1 July, August sample
RCLF-1 July, August sample
RCF2 July, August sample
RCF3 July, August sample
RCW-4 July, August sample
MHC 01 July, August sample

79-23	August sample
79-34	July sample
Main N Main E	September sample
TW-10	September sample
HCC01	September sample
HCC02	September sample
HCC04	September sample
DCWR1	September sample
EM-47	September sample
RCLF2	July, August sample
MF-A	July, August sample
MF-B	July, August sample
MF 19B	July sample
MFR-10	July sample
MFU-03	July, August sample
Little Bear	July sample

The following parameters are also missing from entered samples according to the settings:

Cottonwood/Wilberg

CCC1 water temp, pH, and conductivity for September sample

Please let me know if you have any questions, and have a Merry Christmas and Happy New Year.

Thank you,

Dana Dean, P.E.
 Senior Reclamation Hydrologist
 Utah Division of Oil, Gas, and Mining
 (801) 538-5320
 danadean@utah.gov

>>> "Oakley, Dennis" <Dennis.Oakley@PacifiCorp.com> 12/21/2005 4:10 PM >>>

Dana:

The checked items of the Cottonwood, Deer Creek, Des Bee Dove, and Trail Mountain mines are available for upload into the Division's database. A few other items are needed for a complete submittal. However, because of employee's vacation time at the end of this year, I was unable to retrieve the necessary data to complete this submittal. I will complete

this submittal at the beginning of 2006. If you have any concerns, please contact me at your convenience. I will be away from the office from 12/22 through 1/3/2006.

Best Regards for the New Year!!

Dennis Oakley
Senior Environmental Engineer

Energy West Mining Company
15 North Main Street
P.O. Box 310
Huntington, Utah 84528

Phone: 435.687.4825
Cell: 435.650.9233
Fax: 435.687.2695
e-mail: dennis.oakley@pacificorp.com

The smallest good deed is better than the grandest good intention.

- Duguet -

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=====

Oakley, Dennis

From: Oakley, Dennis
Sent: Tuesday, January 17, 2006 9:02 AM
To: 'Dana Dean'
Subject: 3rd Qtr Water Submittal

Dana,

I finally received the flow for little bear spring. Please upload the remaining sites for CTW, DC, and TM mines to complete the 3rd qtr. submittal. Please let me know if I have missed any.

Thanks!

Dennis Oakley


Senior Environmental Engineer

Energy West Mining Company
15 North Main Street
P.O. Box 310
Huntington, Utah 84528

Phone: 435.687.4825
Cell: 435.650.9233
Fax: 435.687.2695
e-mail: dennis.oakley@pacificorp.com

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- Duguet -



Oakley, Dennis

From: Oakley, Dennis
Sent: Thursday, January 26, 2006 9:41 AM
To: 'Dana Dean'
Subject: 3rd Qtr Submittal

Dana:

Last week I submitted the last of the 3rd qtr. submittal. However I did not receive a official report for these last few sites. Could you please send me this report.

Thanks!

Dennis Oakley


Senior Environmental Engineer

Energy West Mining Company
15 North Main Street
P.O. Box 310
Huntington, Utah 84528

Phone: 435.687.4825
Cell: 435.650.9233
Fax: 435.687.2695
e-mail: dennis.oakley@pacificorp.com

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Oakley, Dennis

From: Dana Dean [danadean@utah.gov]
Sent: Monday, January 30, 2006 1:44 PM
To: Oakley, Dennis
Cc: Jim Smith; Pete Hess; Steve Demczak
Subject: Re: 3rd Qtr Water Submittal

Attachments: PCP-01-06.doc



PCP-01-06.doc (27 KB)

Dennis,

I have uploaded all of the additional data for Cottonwood/Wilberg, Trail Mountain, and Deer Creek from the pipeline into the database. A report is attached.

It looks like you are still missing samples for:

Main N Main E,
TW-10,
HCC02,
HCC04,
DCWR1, and
MFR-10 at Deer Creek.

Please let me know if you have questions.

Thanks,

Dana Dean, P.E.
Senior Reclamation Hydrologist
Utah Division of Oil, Gas, and Mining
(801) 538-5320
danadean@utah.gov

>>> "Oakley, Dennis" <Dennis.Oakley@PacifiCorp.com> 1/17/2006 9:02 AM >>>

Dana,

I finally received the flow for little bear spring. Please upload the remaining sites for CTW, DC, and TM mines to complete the 3rd qtr. submittal. Please let me know if I have missed any.

Thanks!

Dennis Oakley
Senior Environmental Engineer

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Cell: 435.650.9233
Fax: 435.687.2695
e-mail: dennis.oakley@pacificorp.com

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Oakley, Dennis

From: Dana Dean [danadean@utah.gov]
Sent: Monday, February 06, 2006 3:34 PM
To: Oakley, Dennis
Cc: Jim Smith; Steve Demczak
Subject: Re: Missing samples for 3rd Qtr

Attachments: PCP-01-06-2.doc



PCP-01-06-2.doc
(22 KB)

Dennis,

I have uploaded the last five sites for Deer Creek, third quarter 2005, from the pipeline into the database. A report is attached.

The flow value for the September HCC04 sample is still missing. If you e-mail it to me, I can put it in with the sample.

Please let me know if you have any questions.

Thank you,

>>> "Oakley, Dennis" <Dennis.Oakley@PacifiCorp.com> 2/6/2006 3:01 PM >>>

Dana:

The six missing samples from the 3rd qtr. submittal requirements are ready to be uploaded into the Division's database.

Dennis Oakley
Senior Environmental Engineer

Energy West Mining Company
15 North Main Street
P.O. Box 310
Huntington, Utah 84528

Phone: 435.687.4825
Cell: 435.650.9233

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Oakley, Dennis

From: Dana Dean [danadean@utah.gov]
Sent: Tuesday, February 07, 2006 9:02 AM
To: Oakley, Dennis
Subject: RE: Missing samples for 3rd Qtr

The flow is the same for HCC04 as HCC02...

Is that always the case? If so, I will make a note to myself, so that I don't have to ask again.

>>> "Oakley, Dennis" <Dennis.Oakley@PacifiCorp.com> 2/6/2006 4:30 PM >>>

The flow is the same for HCC04 as HCC02, 75.05 cfs.

Dennis Oakley
Senior Environmental Engineer

Energy West Mining Company
15 North Main Street
P.O. Box 310
Huntington, Utah 84528

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Cell: 435.650.9233
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-----Original Message-----

From: Dana Dean [mailto:danadean@utah.gov]
Sent: Monday, February 06, 2006 3:34 PM
To: Oakley, Dennis
Cc: Jim Smith; Steve Demczak
Subject: Re: Missing samples for 3rd Qtr

Dennis,

I have uploaded the last five sites for Deer Creek, third quarter 2005, from the pipeline into the database. A report is attached.

The flow value for the September HCC04 sample is still missing. If you e-mail it to me, I can put it in with the sample.

Please let me know if you have any questions.

Thank you,

>>> "Oakley, Dennis" <Dennis.Oakley@PacifiCorp.com> 2/6/2006 3:01 PM >>>

Dana:

The six missing samples from the 3rd qtr. submittal requirements are ready to be uploaded into the Division's database.

Dennis Oakley
Senior Environmental Engineer

Energy West Mining Company
15 North Main Street
P.O. Box 310
Huntington, Utah 84528

Phone: 435.687.4825
Cell: 435.650.9233
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=====

Oakley, Dennis

From: Oakley, Dennis
Sent: Wednesday, March 08, 2006 10:46 AM
To: 'Jim Smith'
Subject: Depth data for TM-3

Jim,

In the past, we have had confusion on the depth reading of the TM-3 well being read as an elevation.... not really knowing what it meant. In the 3rd Quarter, 2005, I entered the elevation of TM-3 well without any comment. In the 4th quarter, 2005 I entered the elevation and then made a comment to the fact that the reading was elevation, noted the gage reading in psi, and commented that the well was artesian.

Have you had a chance to review the 3rd quarter, 2005 water quality data in the database? I have submitted the 4th quarter, 2005 data but it hasn't been uploaded yet. Would this comment on the data be acceptable?

Dennis Oakley

Senior Environmental Engineer

Energy West Mining Company
15 North Main Street
P.O. Box 310
Huntington, Utah 84528

Phone: 435.687.4825
Cell: 435.636.5053
Fax: 435.687.2695
e-mail: dennis.oakley@pacificorp.com

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- Duguet -



Oakley, Dennis

From: Jim Smith [jimdsmith@utah.gov]
Sent: Wednesday, March 15, 2006 11:40 AM
To: Oakley, Dennis
Cc: Dana Dean
Subject: Trail Mountain 3rd Qtr 2005 water data

Dennis,

I don't see data in the database for:

TM-3	August - water level only
SW-1	August - flow only
SW-2	September
18-3-1	September

JIM